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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/550,387	04/14/2000	Rene Morales JR.	AUS000091US1	8687

7590 04/15/2004

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EXAMINER	
VO, TED T	

ART UNIT	PAPER NUMBER
2122	9

DATE MAILED: 04/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/550,387	MORALES ET AL.
	Examiner	Art Unit
	Ted T. Vo	2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 April 2000*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-99* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,21-39,54-72 and 87-99* is/are rejected.

7)☒ Claim(s) *7-20, 40-53, 73-86* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/~~Mail Date~~ 2,3,7.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. A Shortened Statutory Period Set in the Miscellaneous Office letter, mailed date 5/2/03, is withdrawn because an error is identified in Paper No. 4. The Miscellaneous Office letter was in communication to the entry filed on 2/14/02 (Paper No. 4), which is shown with a substitution of specification. However, in an interview conversation (4/11/04), Mr. Dillon (Attorney Reg. No. 29634) explained that the filing on 2/14/02 was only IDS's, including a submitted disclosure filed by the same applicants under another US application.

2. This action is in response to communications filed on 4/14/2000.

Claims 1-99 are pending in the application.

Specification

3. It would require filling the unfinished information in the Specification, page 1, lines 8, and 11.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Omum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1, 34, and 67, are rejected under the judicially created doctrine of obviousness-type double patenting as being respectively unpatentable over claims 1 of U. S. Patent No. 6,687,834. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

As per claim 1:

Regarding limitation in the Claim:

"*A method in a data processing system including an automated software test environment for automatically testing a software application, said method comprising the steps of:*

establishing a work flow manager for automatically managing said automated software test environment, said automated software test environment including a plurality of computer systems coupled to a server computer system utilizing a network, said work flow manager being executed utilizing said server computer system"

(Claim 1 in US 6,687,834: "establishing a work flow manager for automatically managing said automated software test environment, said automated software test environment including a plurality of computer systems coupled to a server computer system utilizing a network, said work flow manager being executed utilizing said server computer system").

Regarding limitation in the Claim:

"*establishing a plurality of ordered test phases to be executed in a specified order;*

transmitting an event to said work flow manager utilizing one of said plurality of computer systems to start execution of selected ones of said plurality of ordered test phases; and

controlling execution of said selected ones of said plurality of ordered test phases utilizing said work flow manager in response to a receipt of events":

(Claim limitation in US 6,687,834 Claim 1: "controlling execution of said automated test environment utilizing said work flow manager in response to a receipt of external events ("*transmitting an event to said work flow manager utilizing one of said plurality of computer systems to start execution of selected ones of said plurality of ordered test phases*") generated by said plurality of computer systems;

creating a job description including an identification of one of said external events; and

executing a job described by said job description utilizing said work flow manger in response to a receipt of said one of said external events").

As per Claims 34, 67: Claims recite the limitation that has the functionality corresponding to the limitation of Claim 1. Therefore, Claims 34 and 67 are not patentably distinct over Claim 1 of US patent 6,687,834.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-6, 21-39, 54-72, and 87-99 are rejected under 35 U.S.C. 102(b) as being anticipated by Tse (US 5,742,754), Applicants' submitted IDS.

The following claims are given the broadest reasonable interpretation in light of the specification:

As per claim 1: Tse discloses

A method in a data processing system including an automated software test environment for automatically testing a software application, said method comprising the steps of:

establishing a work flow manager for automatically managing said automated software test environment, said automated software test environment including a plurality of computer systems coupled to a server computer system utilizing a network, said work flow manager being executed utilizing said server computer system (See Abstract, and see Fig 3);

establishing a plurality of ordered test phases to be executed in a specified order (See Fig. 3, referring to feature numeral 101, "Test Suites");

transmitting an event to said work flow manager utilizing one of said plurality of computer systems to start execution of selected ones of said plurality of ordered test phases (See Fig. 3, referring to feature numeral 105, "Schedule Job on Servant Computer System"); *and*

controlling execution of said selected ones of said plurality of ordered test phases utilizing said work flow manager in response to a receipt of events (See whole Fig 2, and referring to feature numeral 103 that expanded in Fig. 4, and referring "requested Servant" as "a receipt of events").

As per claim 2: Regarding the limitation of Claim 2: See Fig 4, feature numeral 140.

As per claim 3: Regarding the limitation of Claim 3: See column 4, lines 62-67, "a conventional wired local area network".

As per claim 4: Regarding the limitation of Claim 4: See Fig 3, Servant computer are connected in parallel (Also see column 5, lines 25-28).

As per claim 5: Regarding the limitation of Claim 5: See column 4, lines 62-67, "a conventional wired local area network".

As per claim 6: Regarding the limitation of Claim 6 (See Fig 1).

As per claim 21: Regarding the limitation of Claim 21, Tse discloses, "*the step of establishing a validation procedure including the steps of: suspending execution of said plurality of tests prior to a completion of said plurality of tests prior to a completion of said plurality of tests; and providing a notification of said suspension* (See Fig. 6, and see column 10, lines 19-42; referring "fail logs").

As per claim 22: Regarding the limitation of Claim 22, Tse discloses, "*terminating execution of said plurality of tests prior to a completion of said plurality of tests; and providing a notification of said termination*" (See Fig. 6, and see column 10, lines 19-42; referring "fail logs and data files").

As per claim 23: Regarding the limitation of Claim 23: See Fig 1, feature numerals 22, 24, "Test Suite Log".

As per claim 24: Regarding the limitation of Claim 24: See Fig 2, feature numeral 105, "Schedule Job On Servant Computer Systems".

As per Claim 25: Tse discloses:

"A method in a data processing system including an automated software test environment for automatically testing a software application utilizing a plurality of tests, said method comprising the steps of:

establishing a work flow manager for automatically managing said automated software test environment, said automated software test environment including a plurality of computer systems coupled to a server computer system utilizing a network, said work flow manager being executed utilizing said server computer system (See Abstract, and see Fig 3);

building said software application utilizing one of said plurality of computer systems to create a build version of said software application (See Fig. 1, feature numeral 16, "Perform normal product build", and further see Fig 5A, feature numerals 153, "Has Product Been Built");

automatically transmitting an initialization event to said work flow manager utilizing said one of said plurality of computer systems to start execution of an initialization test phase in response to a completion of said build version of said software application (See Fig. 1, and further see Fig 5A, feature numerals 151, "Creates Initialization Request"; see Fig 6, feature numerals 201);

As per Claim 26: Tse disclose, "*The method according to claim 25, further comprising the step of during said step of building said software application, preparing said automated test environment to execute a plurality of tests on said software application*" (See Fig. 3).

As Per claim 27: Tse discloses,

"A method in a data processing system including an automated software test environment for automatically testing a software application utilizing a plurality of tests, said method comprising the steps of:

establishing a work flow manager for automatically managing said automated software test environment, said automated software test environment including a plurality of computer systems coupled to a server computer system utilizing a network, said work flow manager being executed utilizing said server computer system (see action in claim 25);

building said software application utilizing a build computer system to create a build version of said software application (see action in claim 25);

copying said build version of said software application from said build computer system to one of said plurality of computer systems (See Fig. 1, and further in Fig 5A, see the flow of feature numerals 153, 154, 155, 156, 158; and See Fig 6, feature numerals 214, "Product Patches" [*copying said build version*]); *and*

automatically transmitting an installation event to said work flow manager utilizing said build computer system to start execution of an installation test phase in response to said copying of said build version to said one of said plurality of computer systems (See Fig 6).

As per claim 28: Regarding the limitation of Claim 28, see Fig 5B, feature numerals 163→161, and see Fig. 6.

As per claim 29: Regarding the limitation of Claim 29, see Fig 6, feature numerals 210→1212, "OS patches".

As per claim 30: Regarding the limitation of Claim 30, it recites the functionality in the similar manner of Claim 29. See Fig 6, feature numerals 210→1212, "OS patches".

As per claim 31: Tse discloses, *"A method in a data processing system including an automated software test environment for automatically testing a software application, said method comprising the steps of:*

establishing an event-driven work flow manager for automatically managing said automated software test environment in response to a receipt of events, said automated software test environment including a plurality of computer systems coupled to a server computer system utilizing a network, said work flow manager being executed utilizing said server computer system (see action in claim 25);

executing a plurality of tests on said software application utilizing said plurality of computer systems being managed by said work, flow manager" (See Fig. 6);

Tse discloses, "*in response to a completion of one of said plurality of tests, executing a validation procedure* (See column 10, lines 19-42; referring "user-defined analysis rules") *to validate a result of said one of said plurality of tests* (See Fig. 6, and see column 10, lines 19-42; referring "filter template");

suspending execution of others of said plurality of tests being executed in response to a failure of said validation procedure to validate said result of said one of said plurality of tests; (See Fig. 6, and see column 10, lines 19-42; referring "fail logs") *and*

providing a notification of said suspension of execution" (See Fig. 6, and see column 10, lines 19-42; referring "fail logs").

As per claim 32: Tse discloses, "*A method in a data processing system including an automated software test environment for automatically testing a software application, said method comprising the steps of:*

establishing an event-driven work flow manager for automatically managing said automated software test environment in response to a receipt of events, said automated software test environment including a plurality of computer systems coupled to a server computer system utilizing a network, said work flow manager being executed utilizing said server computer system;

executing a plurality of tests on said software application utilizing said plurality of computer systems being managed by said work flow manager;

in response to a completion of one of said plurality of tests, executing a validation procedure to validate a result of said one of said plurality of tests" (See action in Claim 31).

Tse discloses, "*terminating execution of others of said plurality of tests being executed in response to a failure of said validation procedure to validate said result of said one of said plurality of tests; and providing a notification of said termination of execution*" (See Fig. 6, and see column 10, lines 19-42; referring "fail logs and data files").

As per claim 33: Tse discloses, "*A method in a data processing system including an automated software test environment for automatically testing a software application, said method comprising the steps of:*

establishing an event-driven work flow manager for automatically managing said automated software test environment in response to a receipt of events, said automated software test environment including a plurality of computer systems coupled to a server computer system utilizing a network, said work flow manager being executed utilizing said server computer system;

executing a plurality of tests on said software application utilizing said plurality of computer systems being managed by said work flow manager;

in response to a completion of one of said plurality of tests, executing a validation procedure to validate a result of said one of said plurality of tests (See action in claim 31).

Tse discloses, "*spawning a new process in response to said execution of a validation procedure to determine a result of execution of said one of said plurality of tests (See Fig. 5A, feature numeral 155 "Spawn build"); and*

reporting a result of said spawned new process, wherein said result of execution of said one of said plurality of tests is reported" (See Fig. 5B, feature numeral 165, and see column 10, lines 8-18; referring "test suite log or test coverage data file").

As per Claims 34, 67: Claims 34 and 67 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 1. The rejection has the same reason as set forth in Claim 1 above.

As per Claims 35, 68: Claims 35 and 68 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 2. The rejection has the same reason as set forth in Claim 2 above.

As per Claims 36, 69: Claims 36 and 69 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 3. The rejection has the same reason as set forth in Claim 3 above.

As per Claims 37, 70: Claims 37 and 70 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 4. The rejection has the same reason as set forth in Claim 4 above.

As per Claims 38, 71: Claims 38 and 71 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 5. The rejection has the same reason as set forth in Claim 5 above.

As per Claims 39, 72: Claims 39 and 72 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 6. The rejection has the same reason as set forth in Claim 6 above.

As per Claims 54, 87: Claims 54 and 87 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 21. The rejection has the same reason as set forth in Claim 21 above.

As per Claims 55, 88: Claims 55 and 88 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 22. The rejection has the same reason as set forth in Claim 22 above.

As per Claims 56, 89: Claims 56 and 89 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 23. The rejection has the same reason as set forth in Claim 23 above.

As per Claims 57, 90: Claims 57 and 90 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 24. The rejection has the same reason as set forth in Claim 24 above.

As per Claims 58, 91: Claims 58 and 91 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 25. The rejection has the same reason as set forth in Claim 25 above.

As per Claims 59, 92: Claims 59 and 92 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 26. The rejection has the same reason as set forth in Claim 26 above.

As per Claims 60, 93: Claims 60 and 93 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 27. The rejection has the same reason as set forth in Claim 27 above.

As per Claims 61, 94: Claims 61 and 94 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 28. The rejection has the same reason as set forth in Claim 28 above.

As per Claims 62, 95: Claims 62 and 95 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 29. The rejection has the same reason as set forth in Claim 29 above.

As per Claims 63, 96: Claims 63 and 96 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claim 30. The rejection has the same reason as set forth in Claim 30 above.

As per Claims 64-66, 97-99: Claims 64-66 and 97-99 are claiming a system and a program product, respectively, that have the claim limitation corresponding to the limitation of Claims 31-33. The rejection has the same reason as set forth in Claims 31-33 above.

Allowable Subject Matter

8. Claims 7-20, 40-53, 73-86 are objected to.

As per Claims 7-10, 40-43, 73-76:

Claims 7-10, 40-43, 73-76 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior art of record, Tse, and the cited prior arts of record taken alone or in combination fail to teach the further limitations in Claims 7-10, 40-43, 73-76.

As per Claims 11-20, 44-53, 77-86:

Claims 11-20, 44-53, 77-86 are objected to because of depending on the objected claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Beeker et al., US No. 6,321,347, B1 discloses a network testing system.

Somasegar et al., US No. 5,862,362, discloses a simulation tool provided for simulating a network failure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (703) 308-9049. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:30 PM ET. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam, can be reached on (703) 305-4552.

The fax phone numbers:

(703) 872-9306 (for formal communication intended for entry);

(703) 746-5429 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

TED T. VO

Patent Examiner
Art Unit: 2122

April 12, 2004